

ORDER NO. 3707

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Tony Hammond

Market Dominant Product Prices
Inbound Market Dominant Multi-Service Agreements
with Foreign Postal Operators 1
Australian Postal Corporation – United States
Postal Service Bilateral Agreement
(MC2010-35 and R2010-6)
Negotiated Service Agreement

Docket No. R2017-2

NOTICE AND ORDER CONCERNING TYPE 2 RATE ADJUSTMENT AND OF FILING
FUNCTIONALLY EQUIVALENT AGREEMENT

(Issued December 27, 2016)

I. INTRODUCTION

On December 22, 2016, the Postal Service filed a notice, pursuant to 39 CFR 3010.40 *et seq.*, announcing a Type 2 rate adjustment to improve default rates established under the Universal Postal Union Acts.¹ The Notice concerns the inbound

¹ Notice of United States Postal Service of Type 2 Rate Adjustment, Notice of Filing Functionally Equivalent Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, December 22, 2016, at 1 (Notice).

portion of a bilateral agreement with Australia Post (Agreement) that the Postal Service contends is functionally equivalent to the baseline agreement with China Post (China Post 2010 Agreement) that the Commission included within the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 product in the market dominant product list of the Mail Classification Schedule.²

II. CONTENTS OF FILING

The Postal Service's filing consists of the Notice, two attachments, and redacted and unredacted versions of an Excel file with supporting financial workpapers. Notice at 2. Attachment 1 is an application for non-public treatment of material filed under seal with the Commission. *Id.* Attachment 2 is a redacted copy of the Agreement. *Id.*

The Postal Service states the intended effective date of the Agreement is February 1, 2017; asserts it is providing at least the 45 days advance notice required under 39 CFR 3010.41; and identifies the parties to the Agreement as the United States Postal Service and Australia Post, the designated postal operator for Australia.³ The Postal Service states that the Agreement includes: a process for collecting tracking events associated with small packets with delivery scanning sent from Australia to the United States; the establishment of improved accounting and settlement processes for small packets with delivery scanning; sortation recommendations; and additional data exchange requirements and measurement objectives. Notice at 4-5.

Reporting requirements. Rule 3010.43 requires the Postal Service to submit a detailed data collection plan. In lieu of a special data collection plan for the Agreement, the Postal Service proposes to report information on the Agreement through the Annual

² Notice at 1-2; see Docket Nos. MC2010-35, R2010-5, and R2010-6, Order Adding Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 to the Market Dominant Product List and Approving Included Agreements, September 30, 2010 (Order No. 549).

³ *Id.* at 3. The Postal Service filed its Notice on December 22, 2016, 41 calendar days prior to the intended implementation date of February 1, 2017. The Postal Service is reminded that it is required to transmit notice to the Commission no later than 45 calendar days prior to the intended implementation date of a negotiated service agreement. See 39 CFR 3010.41.

Compliance Report. *Id.* at 7. The Postal Service also invokes, with respect to service performance measurement reporting under 39 CFR 3055.3(a)(3), the standing exception the Commission allowed in Order No. 996 for all agreements filed in the Inbound Market Dominant Multi-Service Agreements with Foreign Postal Operators 1 product grouping.⁴

Consistency with applicable statutory criteria. The Postal Service observes that Commission review of a negotiated service agreement addresses three statutory criteria under 39 U.S.C. 3622(c)(10), as identified in 39 CFR 3010.40, *i.e.*, whether the agreement: (1) improves the Postal Service's net financial position or enhances the performance of operational functions; (2) will not cause unreasonable harm to the marketplace; and (3) will be available on public and reasonable terms to similarly situated mailers. *Id.* The Postal Service asserts that it addresses the first two criteria in its Notice and that the third is inapplicable, as there are no entities similarly situated to Australia Post in terms of its ability to tender small packet with delivery scanning flows from Australia or serve as the designated operator for letter post originating in Australia. *Id.* at 7-8.

Functional equivalence. The Postal Service addresses reasons why it considers the Agreement functionally equivalent to the China Post 2010 Agreement filed in Docket No. R2010-6.⁵ The Postal Service identifies differences between the Agreement and the baseline agreement but asserts that these differences do not detract from the conclusion that the Agreement is functionally equivalent to the baseline agreement. Notice at 9-11.

⁴ *Id.* (citing Docket No. R2012-2, Order Concerning an Additional Inbound Market Dominant Multi-Service Agreement with Foreign Postal Operators 1 Negotiated Service Agreement, November 23, 2011, at 7 (Order No. 996)).

⁵ *Id.* at 8-9; see Docket Nos. MC2010-35, R2010-5, and R2010-6, Order No. 549.

III. COMMISSION ACTION

The Commission, in conformance with rule 3010.44, establishes Docket No. R2017-2 to consider issues raised in the Notice. The Commission invites comments from interested persons on whether the Agreement is consistent with 39 U.S.C. 3622 and the requirements of 39 CFR part 3010. Comments are due no later than January 5, 2017.⁶ The public portions of this filing can be accessed via the Commission's website (<http://www.prc.gov>). Information on how to obtain access to non-public material appears in 39 CFR part 3007.

The Commission appoints Katalin K. Clendenin to represent the interests of the general public (Public Representative) in this docket.

IV. ORDERING PARAGRAPHS

It is ordered:

1. The Commission establishes Docket No. R2017-2 for consideration of matters raised by the Postal Service's Notice.
2. Pursuant to 39 U.S.C. 505, Katalin K. Clendenin is appointed to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.
3. Comments by interested persons in this proceeding are due no later than January 5, 2017.

⁶ Pursuant to 39 CFR 3010.44(a)(5), comments are due 10 days from the Postal Service's filing of the Notice. However, due to the holiday season, the Commission is extending the comment deadline.

4. The Secretary shall arrange for publication of this Order in the *Federal Register*.

By the Commission.

Ruth Ann Abrams
Acting Secretary